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# A NEW PROVINCE FOR LAW AND ORDER

## II

UNDER this name there appeared in this REVIEW in November, 1915, an article written by me at the instance of the editor. It gives in a summary form the results of my experience as President of the Australian Court of Conciliation and Arbitration. As the article seems to have attracted some attention in America, and also in Great Britain and Australia, it may not be amiss to report progress after three more years; especially now that a national labour administration has been created in the United States in the charge of my friend, Professor Frankfurter.

This Court has not to deal with mere theories. It does not work in the air — in the cloud-cuckoo town of Aristophanes. As I said in 1915, the Court

> "has to shape its conclusions on the solid anvil of existing industrial facts, in the fulfilment of definite official responsibilities. It has the advantage as well as the disadvantage of being limited in its powers and its objects."

I propose to make this article supplementary to the former. But, for the benefit of those who have not read the other, I may say that the new province to be rescued from anarchy is that of industrial matters. A court has been constituted under the Australian federal constitution by virtue of a power to make laws with respect to "conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of

any one State." Each of the six states of Australia has tribunals, wages boards or courts, for industrial matters; but this Court was created for disputes which pass beyond the boundaries of any one state, disputes which cannot be effectually dealt with by state laws. In recent years there have been proposals in the direction of enlarging the powers of the federal court, and even of altering the constitution by committing to the federal Parliament the whole subject of labour; but I address myself to the court as it stands under the existing constitutional power.

It is a court for compulsory arbitration — in the sense that its awards are binding as law upon the parties. I have found that in Great Britain as well as in America the idea of compulsory arbitration is repugnant to the leaders of the working class, whereas in Australia, facing different stars, the opposition comes principally from the class of employers. In the earlier years of my work I received through the post many insulting anonymous letters, most of which I have kept as curiosities, and nearly all of these letters came from partisans of the employers. The party with a stronger economic position naturally wants to be free to act as it thinks fit; it objects to be bound by orders from outside. The act makes it the first duty of the Court to endeavour to get agreement on the matters in dispute and to exercise its compulsory powers only when an agreement is impossible; but when the party with a stronger economic position refuses to agree on lines of justice instead of economic strength the Court has to interfere by dictating terms such as would, in its opinion, be just in a collective agreement. The ideal of the Court is a collective agreement settled, not by the measurement of economic resource, but on lines of fair play. The stronger economic position is usually held, of course, by the party which has the right to give or withhold work and wages, the means of livelihood. It is usually held by the employers. This is the reason why the awards necessarily operate more frequently as a restraint upon employers than as a restraint on employees.

I desire to deal in particular with the constructive part of the work of the Court. The awards have to be framed on some definite system, otherwise in getting rid of one trouble you create many others. Some years ago a friend who had had on one or two occasions the function of reconciling parties to industrial troubles

told me that he had found it best to put the leaders into a good humour by getting them to dine together with him and to have a friendly chat. A veteran leader of the shearers has written a book in which, with much *naïveté*, he recommends in the first place that leaders of workers in conferences with employers should first adduce the solid arguments, and then in the last resort make a powerful appeal on behalf of the women and children — "give them the women and children hot." Neither of these courses is permissible for the Court which has to deal, not with single isolated disputes, but with a series of disputes. The awards must be consistent one with the other, or else comparisons breed unnecessary restlessness, discontent, industrial trouble. The advantages of system and consistency in the awards are increasingly apparent, as parties, knowing the lines on which the Court acts and understanding its practice, often now make agreements in settlement of a dispute in whole or in part without evidence or argument.[1] The agreement if certified by the President and filed in the Court is deemed to be an award.[2]

In the previous article I have set forth a goodly number of propositions laid down by the Court, and on looking through them I cannot find that any of them have been overruled or set aside. They have been amplified and applied to varying circumstances, and new propositions have been added. The claims for the assistance of the Court have been so numerous that my colleagues of the High Court have come to my assistance, and in particular Mr. Justice Powers, acting as Deputy President. Although Mr. Justice Powers has had an absolutely free hand in dealing with the disputes which he undertakes, I do not think that in any essential or substantial point he has seen fit to reject any of the propositions; but as I must take the sole responsibility for any statements made in this article I confine myself to a review of the position as it stands under my awards.

## Minimum Wage

The Court adheres to its practice of dividing the minimum wage awarded into two parts — the "basic wage" — the minimum

[1] c/- Engine-drivers, 8 Com. Arb. 206 (1914); Tramway employees, 9 Com. Arb. 208 (1915); Marine stewards, 10 Com. Arb. 539 (1916).

[2] § 24.

to be awarded to unskilled labourers on the basis of "the normal needs of an average employee regarded as a human being living in a civilised community"; and the other, the "secondary wage" — the extra payment to be made for trained skill or other exceptional qualities necessary for an employee exercising the functions required.

A curious controversy arose in 1915 as to the effect of awarding a minimum rate. The act allows the Court [3] to prescribe a minimum rate, and does not mention a maximum rate; and one would have thought it sufficiently obvious that there is no breach of an award on the part of a worker if he decline to take employment at the minimum rate prescribed. The contrary view, however, has been hotly urged, and some partisans of the employers, newspapers and others, have gone so far as to call it a "strike" when men refuse to accept work which is offered at the minimum rate. In Webster's Dictionary "strike" is defined as "the act of *quitting* work; specifically, such an act by a body of workmen done as a means of enforcing compliance with their demands made on their employers." But our act is clear on the subject. According to section 4, "strike" includes the total or partial *cessation* of work by employees acting in combination as a means of enforcing compliance with the demands made by them or other employees on employers. The question first arose in connection with "special cargoes" in the case of the waterside workers (called, I believe in America, "longshoremen"). These men were casual labourers hired by the hour. They turned up at the wharf when a vessel arrived and the foreman made his selection. The minimum rate prescribed was 1/9d. per hour. The union had claimed that wheat should be treated as a special cargo so that the wheat carriers should be entitled to a minimum rate of 2/– per hour. The Court had refused this claim, as there seemed to be no sufficient difference between wheat and other commodities for the purpose of a *minimum* rate. But it appeared that certain members of the union had adopted the practice of following the wheat ships from north to south, and having acquired a certain dexterity in the handling of wheat, had succeeded with some employers in enforcing the payment of 2/– per hour. Under the exigencies of the war the

[3] § 40.

various wheat states had formed wheat pools, and the state governments were quite willing to pay the extra third per hour in order to get the services of these men in loading the ships for export to Great Britain; but they did not like to pay the extra third in the face of the decision just given by the Court. The Court reassured the employers of the wheat pool thus:[4]

"It is not necessarily an unjust extortion for a man or a class of men who make wheat-carrying a speciality, to demand more than the minimum rate for his or their services. It is quite in harmony with the principle of freedom of contract subject to the minimum wage that an employer should seek by extra wages to attract men, who, as he thinks, will give him extra speed and efficiency. The device of a minimum wage will soon prove to be a bane instead of a blessing if the position be perverted as the arguments tend to pervert it. I can only say plainly that there is no breach of the award or impropriety in a man refusing his services in loading wheat unless the employer pay him more than the minimum. It is all a matter for contract."

The extra third was paid. The wheat was loaded and carried to the Allies, while at the same time no obligation was imposed on all the exporters for the term of the award to pay a minimum rate of 2/–.

The doctrine, however, which now appears to be a mere truism, was attacked by certain newspapers and employers in a tirade of abuse. The men, it was said, were actually encouraged by the Court to "strike" for higher wages. Even if the legal position were clear the Court was not justified in stating it, in suggesting higher demands, and so forth. However, I took the first opportunity of stating a case on the subject for the opinion of the High Court; and the High Court, by a unanimous decision, upheld the doctrine.[5]

It would, of course, be an astounding position if, while the employer remains free to give or to refuse employment at the minimum rate, the employee were bound to take employment at that rate. The employer has the formidable power of refusing to give work to any particular man, the power even to put an end to all his own business operations; why should not the employee be free to refuse to take work? A minimum rate is in effect a restraint on

[4] Waterside workers, 9 Com. Arb. 315 (1915), 10 Com. Arb. 1 (1916).

[5] Waterside workers, 21 Com. L. R. 642 (1916).

the employer; a maximum rate would be in effect a restraint upon an employee. The act gives power to prescribe a minimum rate, and the object of that power would be defeated if a man who thinks that his services are worth more than the minimum rate were not free to hold out for a higher rate. Some employers pay more than the minimum for the avowed purpose of attracting the best men. Incidentally it may be remarked that the position as now settled here is very far from justifying the fears of those who look on provisions for minimum rates as tending to the establishment of a "servile state." Mr. Belloc's dogma [6] that "the principle of a minimum wage involves as its converse the principle of compulsory labour," is not confirmed by such experience as I have had.

The statement has often been made that the minimum rate tends to become the maximum rate. I have not found it so. It is quite true that far more employees get the minimum rate prescribed than got it before the rate was fixed, for, before that time they usually got varying rates, mostly below the minimum. I have not found unions objecting to members taking extra pay for extra usefulness; for instance, in building operations an expert scaffolder often claims, and gets without objection, a higher rate than the flat minimum prescribed; and leading hands in a labouring process often get higher rates than their mates; [7] but unions object to extra rates for extra servility, for disloyalty to one's comrades.

### Offensive Jobs, Etc.

Connected with this doctrine are the propositions that the Court does not attempt to discriminate in minimum rates on the ground of comparative laboriousness, and that the Court will not prescribe an extra minimum to compensate for unnecessary risks to the life or health of the employee, or for unnecessary dirt.[8] For instance, members of the Amalgamated Society of Engineers failed to get an increase of rate under the name of "dirt money" when handling dirty work. That is to say, the Court refused to increase the *minimum* rate prescribed.[9] So, too, in artificial manure works,

[6] "The Servile State," 172.

[7] Broken Hill, 10 Com. Arb. 200, 201 (1916).

[8] Propositions 12 and 19 of the previous article.

[9] Broken Hill, 10 Com. Arb. 155 (1916).

the employees asked for an increase in the minimum rate because of dust and fumes. It was said that dust affected the air passages and produced catarrh, etc.; but there was no evidence to show how far, if at all, the dusty conditions operated to reduce the effective wages. The Court was unable to express the injury in terms of money. Of course, if the subject of defective arrangements under which dust is produced come before the Court directly as a grievance for regulation, the Court would have to decide the matter as best it could; but employers must not be allowed to purchase by money a right to injure health. The same principles are applied to cases of excessive strain on employees, as by excessive weights or excessive use of certain muscles or injury to clothes:

"This Court tends rather to refuse to make differences in minimum rates except for clearly marked distinctions and qualifications, such as craftsmen's skill, or exceptional responsibility, or special physical condition, necessary for the function. . . . Differentiation in minimum rates prescribed must be made on broad lines."[10]

On the same grounds the Court expressed disapproval of the system of extra minimum rates for special cargoes handled by waterside workers. When one special cargo was conceded by another tribunal there were incessant efforts to make more cargoes special, until at last the complaint was that all cargoes should be special except case goods. No subject has caused more incessant friction. There can be, however, no objection to a man refusing to accept employment for a cargo which injures his health or is beyond his powers, or if he think that he ought to get a payment beyond the minimum. Beyond the minimum there is an ample area for free bargaining.

### Regulation of Employers' Methods

But although the Court does not prescribe a differential minimum rate on the ground that a job is offensive or distressing, it has sometimes to award directly on the subject when it is made the ground of a substantive dispute. For instance, the waterside workers complained that the weights put upon them to carry or to wheel were too heavy; and the Court prescribed a maximum of

[10] Artificial manures, 9 Com. Arb. 187–89 (1915).

1 cwt. for bagged ore to be lifted, a maximum of 5 cwt. for one man using a two-wheeled truck (the truck itself weighs 2 cwt.), a maximum of 200 lbs. for bagged cargo to be carried, a maximum of 15 cwt. for two men using a trolley.[11] There were certain exceptions made; it was recognised also that the weight might vary with the condition of the wharf; and, above all, there was no appropriate scientific evidence of the kind that is collected in the excellent work of Miss Goldmark, "Fatigue and Efficiency." But interference on such subjects is rare. It is well known that the Court is very chary about dictating to those that have to direct the work as to the mode of carrying it out;[12] and that it will not dictate conditions unless it be clearly shown that the mode adopted involves undue pressure on human life. The Court usually refuses to prevent the employer from having the work done as he thinks desirable for his undertaking,[13] or to dictate the number of men to be employed,[14] or to alter the functions of the respective officers,[15] or to prevent an employer from calling on an employee to work extra hours if paid substantial extra rates,[16] or to prevent coastal vessels from being at sea on Sundays,[17] or to prescribe the number of retorts to be drawn and charged by a stoker in his shift,[18] or to interfere with the choice of men for appointment or promotion. The Court does not favour the arbitrary limitation of the proportion of boys to adults if the employer finds that boys will answer the purpose of his undertaking as well as men, and especially if he bind himself to teach the boys a definite trade. But the position is different if the boys would not be employed for certain heavy or risky work except for their wages being lower — if the employer would not employ boys but for the cheaper rate.[19] In one case the Court refused to exempt any boys from the minimum adult wage unless they were properly apprenticed.[20] Similar principles are

[11] Waterside workers, 9 Com. Arb. 305–09 (1915).
[12] See proposition 30.
[13] Pastoralists, 11 Com. Arb. (1917).
[14] Marine engineers, 10 Com. Arb. 528 (1916).
[15] Postal electricians, 10 Com. Arb. 578 (1916).
[16] Merchant Service Guild, 10 Com. Arb. 673 (1916).
[17] *Ibid.*, 214 (1916).
[18] Gas employees, 11 Com. Arb. (1917).
[19] Linemen, 10 Com. Arb. 602, 613 (1916).
[20] Butchers, 10 Com. Arb. 465, 495 (1916).

applied in the case of women. If women are put to work more suited for men, as that of a blacksmith, or even to work for which men are equally suited, the women must get a man's minimum.[21]

## Directors of Industry

The Court does not ignore, however, the increasing demand of employees for some voice as to the conditions of working, the uneasy feeling that the employers, or rather their foremen, have an autocratic power which is too absolute. Wages and hours are not everything. A man wants to feel that he is not a tool, but a human agent finding self-expression in his work. The Court tries, therefore, to encourage by all the means in its power the meeting of representatives of the unions with representatives of the employers. Such meetings produce a good effect, even when the employers adhere to their methods, giving their reasons. Fortunately there is no difficulty as to recognition of the unions. The unions have come and have come to stay. Our act could not be worked without unions. One of the chief objects of the act is, under section 2, "To facilitate and encourage the organisation of representative bodies of employers and employees, and the submission of industrial disputes to the Court by organisations." Now the act [22] enables the Court to appoint "Boards of Reference," and such boards involve opportunities for meeting for discussion of methods and alleged grievances. The difficulties which the Court has to face as to such boards appear in a passage in a judgment of last year, a passage which I take the liberty of setting out:

"The most serious difficulty that I see in the agreements and in this award is the absence of the provision for a Board of Reference — a Board in which the employer and the employed could take counsel together for the purpose of dealing with any grievances which employees allege and which the directors and managers, owing to their remoteness from the stress of actual operations, cannot realise. It is one of the signs of the times, of which employers would do well to take heed, that the workers are gravely dissatisfied, because they have no voice whatever in the regulation of the conditions under which they spend so much of their lives, that their opinions as to the possibility of preventing unnecessary hardship are not to be treated as being of more account than

[21] Fruit-growers, 6 Com. Arb. 61, 71 (1912). [22] § 40 *a*.

as if they were engines or horses. Many a grievance, or supposed grievance, would be removed before it developed into a serious trouble by a proper board of reference. I have hoped and worked for an agreement for such boards in this case, one at least for each undertaking; but the parties cannot agree as to the conditions. The companies want to insert a provision that before a grievance can come before the board of reference it must be brought by the individual employee aggrieved before his foreman or immediate superior. The union desires that the grievance shall be brought before the management by the works committee of the union, and then, if necessary, before the board of reference; but it is willing, as a compromise, to agree that either the individual or the board may approach the management. The companies unite in insisting that the individual employee must first make the complaint. Such a provision was not in the agreements of 1913, and there is no evidence that the lack of it has had any ill-effect. But the companies are firm on the subject. It is suggested that I should exercise my power under Sec. 40-*A* to appoint a board of reference. That section enables me to assign to a board the function of dealing with "any *specified* matters or things which *under the award or order* may require from time to time to be dealt with by the board." Unfortunately these words mean, according to a majority of the High Court, that I must specify now, in my award, the specific grievances which the Board may deal with (*Federated Engine-drivers* v. *Broken Hill Company*, 16 C. L. R. 245). Apparently it is not enough for me to commit to the Board all or any matters which may arise — even arise under the award or order. As I have said in previous cases, it is impossible for me to specify beforehand the grievances which will arise or be alleged. Whether the view of the High Court is correct or not, I shall obey it. I had hoped that Parliament would have come to the assistance of the Court by an amendment of the section, but it has not done so. I cannot make use of the section, at all events, so as to meet the circumstances of this case." [23]

The fundamental difficulty of the position seems to be that the employer and the union look at the methods used from different points of view. The employer — generally a company acting through directors — looks at money results, at profits, at expenses. The union looks at the results to the human instrument. Both sides of the subject ought to be considered. It is significant that the unions are always willing to have such boards, and the Court often manages to get an agreement on the subject. The board of

[23] Gas employees, 11 Com. Arb. (1917).

reference has been the only means within the power of the Court for meeting the increasing demand to which I have referred. It meets the demand to a certain extent, and tends to further developments.

## How the Basic Wage is Found

The "basic" or living wage, the minimum wage for the unskilled worker, is the primary factor in the fixing of all wages by award; and the fixing of the proper basic wage is necessarily of an importance that can hardly be exaggerated. It must vary with the cost of living in the various districts: for instance, the basic wage for the seaports would not be a proper basic wage for inland mining districts such as Broken Hill. But sometimes by general consent a uniform basic wage is desirable, as in the case of the waterside workers or seamen; and the Court then takes as its guide the mean cost of living for the several ports. In such cases it becomes possible to form some idea of the immense sums which an award of the Court may transfer from the employing (or the consuming) class to the employed. An increase of 1/– per working day for ten thousand men means an increased expenditure of £156,500 per annum; and there were about seventeen thousand men in the union of waterside workers. In that case arbitration was sought by about one hundred and fifty employers — trading oversea, interstate, within a state. Not only in the vastness of the sums involved, but in the effects on families and the proper nurture of children, and in indirect consequences in all employments, the responsibility of the Court is very grave. The decisions of the Court probably affect directly more human lives than the decisions of all the other courts. The Court has repeatedly invited full enquiry on scientific lines as to the cost of living, but neither the government nor the parties have yet responded. Preferably the enquiry should be made by expert statisticians and on the basis of distinct regimens, but the responsibility of fixing the basic wage should be left with the Court. In the meantime the Court has been obliged to work out the problem on the best materials that it can get. At present the Court takes as *prima facie* evidence the findings as to the cost of living on then existing habits in Melbourne in 1907, and then it takes the statistician's figures as to the depreciation in the value of money as against commodities as *prima*

*facie* evidence of the increase in the cost of living. The Commonwealth statistician has found that in Melbourne it took in 1916, 26/6d., to purchase commodities that could be purchased in 1907 for 17/6d.; and the decrease in the value of money is nearly the same elsewhere. That is to say, the increase in the cost of living is over 50 per cent, chiefly owing to the existing state of war.

It is a curious fact that there has been little or no attack on the empirical finding of 1907 as to the actual cost of living. Employers generally admit that the amount of 42/- per week was fair at that time; but there have been of late strenuous attacks on the statistician's figures of increase. The statistician has taken some forty-seven staple articles of food and rent as consumed by all classes of the community, and has found the changes in price of those articles; and he very properly adheres to the same articles and assumes that they are consumed in the same quantities. He does not, as some people fancy, pretend to show the cost of living in a wage-earner's family, but he shows the depreciation in the value of money as regards the selected commodities, and, as he says,

"in normal circumstances properly computed index numbers of food and groceries and house rent combined form one of the best possible measures of those variations in the purchasing power of money which affect the cost of living."

Then the Court comes in, and, *until the contrary be shown*, infers that the depreciation in the value of money which is found in relation to the selected commodities is to be found also in relation to the other commodities. This method is in accordance with the views and intentions of the statistician; for he says "once a standard of living or living wage has been fixed the tables published . . . can be legitimately used as showing the variations in the cost of living." No party is bound by these tables as by a matter of absolute irrefutable law, but they are on the right method, and the Court makes use of them until it can find better evidence.[24] The criticisms made hitherto on the statistician's findings are made under a misapprehension.

It is the practice of the Court to let no consideration of competition with foreign countries reduce what is found to be the proper

[24] Butchers, 10 Com. Arb. 477–84 (1916); Merchant Service Guild, 10 Com. Arb. 225 (1916); Gas employees, 11 Com. Arb. (1917).

basic wage;[25] and this practice, it must be admitted to the credit of the employers, has never been disputed so far as I know. The proper sustenance of the persons employed (on the basis of family life) is treated in effect as a first charge on the product.

## Secondary Wage

With the secondary wage the position is different: There is more scope for compromise or arrangement. At the same time it has been found inadvisable except in extreme circumstances to diminish the margin between the man of skill and the man without skill. One of the drawbacks of industry in Australia is that lads do not learn their trades thoroughly — do not take the trouble to become perfect craftsmen. There is a tendency to be content with imperfect workmanship, to put up with the "handyman," and his rule of thumb, to put up with what is "good enough"; and nothing should be done by the Court which would lessen the inducements to learn a trade and to learn it properly.[26]

However, when the Court has increased the basic wage because of abnormal increase of prices due to the war it has not usually increased the secondary wage. It has merely added the old secondary wage, the old margin, to the new basic wage. It is true that the extra commodities which the skilled man usually purchases with his extra wages become almost indispensable in his social habits as the commodities purchased by the unskilled man, and have no less increased in price; but the Court has not seen fit to push its principles to the extreme in the abnormal circumstances of the war, and the moderate course taken has been accepted without demur. I may add here that the Court, where necessary, adopts gradations in the secondary wage. For instance, after fixing the basic wage for unskilled labourers in the gas employees case, it awarded 6d. per day for men classed as skilled labourers, 1/– per day more for men in charge of plant, etc., 2/– per day more for men of necessarily exceptional physical qualities, etc., such as stokers; and 3/– per day more for artisans fully trained.[27] The margin between the basic and the secondary minimum follows the margin usually adopted in the time of unregulated practice.

[25] Marine engineers, 10 Com. Arb. 532 (1916).

[26] Butchers, 10 Com. Arb. 485 (1916).

[27] Gas employees, 11 Com. Arb. (1917).

## Hours

With regard to hours of work, the Court generally adheres to the Australian standard of forty-eight hours per week. Any overtime has to be paid for at higher rates; but there are some exceptions to the forty-eight-hour rule. Fewer hours have been prescribed where the occupation is very nerve-racking, where as in the case of the builders' labourers the men have to "follow the job," and now in the case of underground mines and smelters.[28] It may interest American readers to know that as to underground mines and smelting the Court availed itself of the reasoning of the Supreme Court of the United States in the constitutional case of *Holden* v. *Hardy*.[29] In that case a state statute limiting the hours in mines and smelters was upheld, notwithstanding the Fourteenth Amendment of the Constitution, because the state legislature had regarded the limitation as conducive to health and life. The work was not only risky but also unhealthy. Lead poisoning and pneumonia were common. Special mention ought to be made here of the conduct of the men at the Port Pirie smelters. The lead ore which comes from Broken Hill is smelted at Port Pirie, and the produce is sent during the war to the British government. The men were working seven shifts of eight hours, Sundays as well as ordinary days, and they had been for years seeking a six-day week on a rotation scheme; but they recognised that there was a shortage of men suitable for the smelters and that without the fifty-six-hour week the continuous process could not be kept up. So they asked me to postpone the boon of shortened hours till after the war. They did this as a gift to the nation for the purpose of the war, not under compulsion in the interests of the employers.

On the other hand, the forty-eight-hour week is not a rigid rule for all occupations. Sometimes the Court has fixed fifty-two hours where the nature of the trade required it, and where the operation has variety and is of an open air character, as in the case of certain carters and drivers.[30] In the case of station hands (boundary riders, bullock drivers, and generally useful men employed by pastoralists); it was found impracticable to set any definite limit

[28] Broken Hill, 10 Com. Arb. 155, 185–91 (1916).

[29] 169 U. S. 366 (1898).

[30] Butchers, 10 Com. Arb. 496 (1916).

to the hours except for those men who were employed at or about the homestead; and in the case of the latter class the hours were fixed at fifty-two with the general assent of employers.[31]

In connection with the subject of hours I may mention two curious facts tending to show a positive increase in efficiency and in results arising from well-regulated pauses in muscular exertion. In some industries — that of the waterside workers, for instance — "smokos" have for many years been permitted in Australian practice. I have been unable to find any analogue in America or in Europe. A "smoko" is a cessation for a short rest period in a run of work, a pause usually given without reduction of pay, and experienced managers and foremen have assured me that the "smoko" actually helps the working results. The men work with "more heart." They take a "snack" or a "pull" at their pipes. With the consent of the employers the court prescribed two night "smokos" of half an hour each; but as a day "smoko" would in many ports interfere with the work of the carters the matter of day "smoko" was left to the discretion of the employers.[32] Another fact is that in shearing operations where there are piecework rates, so much per hundred sheep, the employers actually sought for more pauses in the work than the union. Yet the employers' interest is clearly on the side of brief time of shearing; for the overhead expenses and the wages of men on daily wage run on all the time. The union asked for two four-hour runs of work between 8 A. M. and 5:30, with one meal between runs, instead of six runs with two meals and three "smokes" interposed between 6 A. M. and 6 P. M. The Court prescribed as requested by the employers.[33] The case of the waterside workers is a case of payment by time, and yet the employers prefer to allow a pause, a deduction from the time sold to them. The other case is one of payment by result, piecework. Piecework tends to speed, but tempts to imperfect workmanship; time-work tends to proper care but tempts to slowness. In certain metropolitan abattoirs the manager prefers time-work with a tally of fifty-nine sheep per day, although in export meat works the average tally is eighty to one hundred a day.[34] In

[31] Pastoralists, 11 Com. Arb. (1917).
[32] Waterside workers, 9 Com. Arb. 293, 300, 317 (1915).
[33] Pastoralists, 11 Com. Arb. (1917).
[34] Butchers, 10 Com. Arb. 491 (1916).

the shearing of sheep of exceptional value it is usual for the employer to prefer payment by time wages. In piecework slaughtering the inducement of greater pay was not sufficient to prevent the union from asking for shorter hours. The employers opposed, but they have a quaint device called "the clock." The foreman tells the leading hand, the "clock-man" at what rate per hour he wants the slaughtering done; and the employers say that this course is taken to prevent the men from absenting themselves as a consequence of over-exertion, as well as to ensure that the flesh, pelt, etc. are not injured by too furious a use of the knife. Speed for the day is not the only thing to be considered.

### Stoppages

The disputes brought under the attention of the President or Deputy President, or under the cognisance of the Court, since it was started in 1905 are very numerous. There must be several hundreds apart from incidental applications, and the points in dispute might almost be called infinite. The operations of the Court now occupy most of the time of two High Court Justices, but the expenditure of the time and labour will probably be thought a good investment. For, though the disputes dealt with are many, the stoppages of work are very few; and it is the prevention of stoppages in operations required by the public that is the object of the power given by the Constitution. The work of the country must be carried on. The community requires that what it needs shall be continuously supplied, and to that end it provides for the redress of alleged grievances a tribunal which should render stoppages unnecessary. In a free country people may think they see the way to a better industrial economic system, and they may work towards that system, but in the meantime food, clothing, and shelter must be provided, and other commodities. The need for the day's food and supplies "subtends a greater angle" for the time being (the expression belongs to O. W. Holmes, I think), than all our theories, and above all the needs of those who are dearest to us, as the most helpless, — the children. Their constitutions and the future of the race must not suffer by privation. Men have ever to

> "Keep the young generation in hail
> And bequeath them no tumbled house."

In other words, the people are consumers as well as producers, and the object of the power in the Constitution is primarily to protect the people as consumers; and as incidental to that end to provide means whereby producers can have their legitimate human needs satisfied without recourse to stoppages. There should be no more necessity for strikes and stoppages in order to obtain just working conditions than there was need for the Chinaman of Charles Lamb to burn the house down whenever he wanted roast pork. The arbitration system is devised to provide a substitute for strikes and stoppages, to secure the reign of justice as against violence, of right as against might — to subdue Prussianism in industrial matters. Unfortunately the public do not know all the disasters from which they have been saved by the machinery of the Court. They "do not see because they do not feel." They know the inconveniences to which they have been put, but they do not realise the inconveniences from which they have been saved. In one case, for instance, little noticed, some of the principal cities would have been left without light but for the interposition of the Court.[35] However, something may be learned from a comparison. In Great Britain, according to Mr. G. D. H. Cole,[36] the Board of Trade acting under the Conciliation Act of 1896 dealt with five hundred and ninety-seven cases up to the end of 1912, and of those two hundred and ninety-two involved stoppages; and in 1912 of the seventy-three cases, thirty-four involved stoppages. That is to say, stoppages occurred in nearly half of the disputes handled. In the case of the Australian Court I can recall only two stoppages extending beyond the limits of any one state in disputes so extending, and yet during the same period strikes in local disputes, outside the competence of the Court, have been very numerous. People here know what a gain there is in the fact that there have been no such social upheavals as occurred in connection with the shearers and the shipping employees before this Court was constituted. The men know well that they cannot get arbitration if at the same time they try to enforce their demands by stoppage of work. They cannot have arbitration and strike too. I find that in the previous article I stated that since the act came into operation there had

[35] Gas employees, 11 Com. Arb. (1917).

[36] "THE WORLD OF LABOUR."

been no strike extending beyond the limits of any one state. That cannot be said now; but the exceptions are worthy of study.

The first was that of the coal miners at the end of October, 1916. About 80 per cent or 90 per cent of the coal miners are in New South Wales, but the miners of Victoria and of Queensland had joined those of New South Wales in a federation. At the request of the federation the President held a conference in June, 1916. The principal subject of dispute was a claim for eight hours bank to bank, and no agreement was reached; but certain concessions were accepted to tide over the time till arbitration, and the President promised to give the case, for certain reasons, precedence; but when the case came on it appeared that in several of the mines the men were taking the hours which they sought. The union officials were not obeyed. The Court refused to proceed with the arbitration until the men resumed the former hours: — "I shall certainly not go on with arbitration with my hands tied, and my hands would be tied if the men were getting by direct action . . . that which they are asking me for." [37] There followed several adjournments with the view of allowing the officials of the federation to use persuasion, but the matter was complicated by the bitter opposition of the unions to a proposal for conscription, and by an extraordinary antipathy to the Prime Minister, Mr. Hughes. They passed resolutions not to work except on the conditions named, and the work was stopped on or about the day of the referendum. The position was very serious. The stocks of coal available for the gas companies were running very low, especially in Sydney. The Prime Minister held a series of conferences in which he found that the miners were firm in their refusal to work unless they got the eight hours bank to bank, and the employers insisted that if this concession were granted they would have to raise the price of coal. The Prime Minister asked the President to deal with the case as under a recent War Precautions Regulation (of doubtful validity), and, as incidental to the concession as to hours, to find what additional price the mine-owners might charge for coal. All such proceedings were outside my proper functions, but, as the Prime Minister was in great difficulty, I was willing to enter upon the enquiry as to the claim for the eight hours under our own

[37] Coal and shale employees, 10 Com. Arb. 246 (1916).

act — not at the instance of the union, but on the application of the Prime Minister and if the mine-owners concurred. But I stipulated that my hands must be free either to grant or refuse the eight hours as should seem just. The Prime Minister then, by other machinery — (assuming it to be valid) — caused the claims of the miners and the mine-owners to be granted without evidence and without argument as to the eight hours, the union undertaking that there should be no further trouble during the war. It is not seemly that I should make use of this review for the purposes of putting my view of the action of the Prime Minister, but those who care to follow the controversy will find it in the eleventh or twelfth volume of the reports of the Court. The consequences of the action were certainly disastrous. The union failed in its undertaking; there were frequent local stoppages; and at last in August, 1917, the men of the union, with the approval of their leaders, struck work in sympathy with the railway employees of New South Wales — of which I shall say more presently. This Court, at all events, was preserved from a course which would have fatally injured its character and its influence.

The second case occurred about June, 1917. The glass bottle-makers of three cities suddenly struck work. At the request of the employers the President called a conference. The dispute was as to payment for defective machine-made bottles. Nothing would induce the men to return to work unless their demand was conceded. According to their leaders, the men thought that the employers would yield rather than have their furnaces extinguished and their plants idle, but the employers did not yield. The President gave his sanction to a prosecution for penalties. Certain penalties were imposed and the men had to return to work on the employers' terms. A refusal of this kind to accept arbitration is unprecedented, and I have not been able to understand it unless it be an explanation that the industry depended on imported German or Austrian glass-blowers.[38]

In addition to these two cases there has been a "sympathetic strike" on the part of a registered union; but it was not in support of any dispute of which the Court could take cognisance. In August, 1917, there was a strike of engineers and others in the state railway

[38] Glass bottle-making, 11 Com. Arb. (1917).

works of Sydney. The engineers struck work because the Railway Commissioner of New South Wales (the railways belong to the state) was introducing some card system for recording the time taken by each man in several operations. Then the other railway men, engine-drivers, stokers, etc., struck in sympathy, then the Sydney tramway men (government tramways), then the coal miners, then the waterside workers, the seamen, and so on. The strike of the waterside workers extended to the principal ports of Australia. The waterside workers were actually working under an award of the Court; yet it is surely significant that the alleged grievance from which this general strike started was not within the competence of this Court, could not be handled by this Court under the law: for two reasons, each sufficient in itself. (1) The dispute as to the card system was a dispute between a state "instrumentality" and its employees; and according to a decision of the High Court given in pursuance of the American doctrine of *McCulloch* v. *Maryland*, *etc.*, this Australian Court of Conciliation cannot touch a state "instrumentality";[39] (2) the dispute as to the card system was confined to one state. It is not even an offence under our act for men to strike on account of a dispute as to an industrial matter if the dispute be confined to one state.[40] It appears that the leaders of the railway men in Sydney asked the government to refer the dispute to the Arbitration Court of New South Wales, and that the government declined. I have not been able to ascertain the ground for the refusal, but at all events it is clear that our Australian Court could not deal with the root of the trouble.

Nevertheless, the operations required by the country at the wharves had ceased, and it became the duty of the Court to do anything in its power to get the operations resumed. Therefore on the thirtieth of August, 1917, the Court at the instance of some thirty employers struck out of the award a clause which embarrassed them in making use of outside labour. The Prime Minister, however, had been President of this union, and he evidently thought that something drastic should be done by way of punishment to the members. The public were alarmed and indignant at the wide-

[39] Federated railway association, 4 Com. L. R. 488 (1906).

[40] Coal and shale employees, 24 Com. L. R. 85 (1917).

spread suspension of activities. The mode of punishment which the Prime Minister chose was the cancellation of the registration of the union in the registry of the Court. So he got the Governor-General to sign a regulation as under the War Precautions Act to enable him to cancel the registration of any union on strike if registered in the books of the Court. On the very day that the regulation was published, the Prime Minister caused an application to be made to the President for a rule *nisi* for the union to show cause before the Court why the registration should not be cancelled. This seemed to the President to mean "You must cancel; for if you do not cancel I shall myself cancel." Such an attitude recalls the efforts of the Tudor and Stuart sovereigns to interfere with the judges in the execution of their duty, and especially the amusing controversy between James I and Lord Coke in the evocation case; but the President granted the rule so that the matter might be discussed. It turned out in the argument that the Prime Minister thought by cancellation to destroy the award; but this was a mistake, for an award is not destroyed by cancellation of the registration of the union. The Court discharged the rule. The grounds were that the powers to cancel were not to be used as an instrument of fruitless vengeance; that the cancellation would not free the employers from the obligations of the award; that it would be unjust to members at ports at which there was no strike; that it would free the property of the union from penalties for future strikes; that it would prevent the union from suing members for breach of its rules, that it would deprive the registrar of his power to get returns of members, officers, etc.; that it would make it difficult to know whom to summon to conferences. Moreover, the strike was against the advice of the executive union, and the union was now induced by the President to alter its rules so as to give to the executive more control over its members and branches, and so as to forbid strikes without the consent of the executive. Deregistration would not conduce to industrial peace, but would turn a public responsible body into an underground, irresponsible combination.[41] It is curious indeed to observe how, under the southern sky, the position has been reversed, and the registration of unions which nearly led to a labour revolution in France in Waldeck-Rousseau's

[41] Waterside workers, 11 Com. Arb. (1917).

time, about 1884, has become a *desideratum* of the union, is regarded by the unions as a privilege. The Prime Minister was very much displeased; but he did not attempt to make any further use of his supposed power under the regulation.

I have felt it necessary to state these three exceptions at some length. In the first case, to speak summarily, the trouble was mainly political. In the third case the Court had no jurisdiction — it was forbidden to touch the root of the trouble. But the second case was a clear case of strike for conditions of work which ought to have been submitted to the Court. It is satisfactory to find that in none of those cases was the strike owing to the failure, or alleged failure, of the Court to grant justice in any dispute as to which it had jurisdiction. It is significant also that the widespread strike of August, 1917, was in a dispute which was outside the jurisdiction of this Court, and which was not submitted to the court of the state in which the dispute occurred.

## Sympathetic Strike

The occurrences of August, 1917, have led to the consideration of the proper mode of dealing with the "sympathetic" strike. The difficulty is mainly a psychological difficulty — it might be called a moral difficulty. What is a man to do who wants to lead a peaceful life, but whose comrades refuse to work in order to aid other unionists in their struggle with other employers? He wants to be true to unionism and his comrades. He hates the idea of taking advantage of his comrades' self-denial, of taking a job that one of them might get but for making common cause with those who have an alleged grievance:

"The pathetic feature of the position is that most of the men think that by ceasing work in sympathy with the New South Wales railway men they are doing what is virtuous — sacrificing themselves for their fellows: or, putting the matter in another way, they are afraid of being charged with perfidy towards other unionists. If men in a union could be brought to see that their duty to the public, to their humankind, is higher than their duty to other unions (whether the other unions are right or wrong) the problem of sympathetic strikes would be nearly solved. If they could be brought to weigh the probabilities of advantage coming to the fighting union from the sympathetic strike against the

certainty of general loss, unemployment, misery, this would also help to the solution of the problem." [42]

Transport workers, especially, of all kinds, are always made to bear the brunt of the struggles of other unionists. The grievance is not the grievance of his union and there is nothing for the Court to arbitrate about, no subject matter in dispute between the sympathetic striker or his union and any employer. It may be said that an arbitration court cannot be expected to achieve the impossible, that it must stop short of a case in which there is no alleged industrial grievance as between the sympathetic striker and his employer, and that the Court ought not to attempt to take away the right of every man to put his hands in his pockets and to say, "I shall not accept the work offered — no matter what my reason may be." Individual freedom of action to work or not to work must be preserved at all costs; and yet it cannot be right that the community should be wilfully held up in its necessary activities when the community provides means for preventing the oppression of the poor for their poverty. It would be a great gain to the community if each union were to confine its efforts to its own grievances. In the case of the engine-drivers, a class of workers whose members are found in all sorts of undertakings, the Court intimated that an award for such a craft should be regarded as a special privilege entailing special obligations, and asked what the members would do for instance in a strike of miners — would they lower and raise the officials and any men remaining at work? The leaders of the union were reasonable, admitted that the members should do so, and gave the Court an undertaking to that effect. Then, in the case of the Merchant Service Guild, I found that the masters and officers of the vessels were required to contract to do manual work if and when required. This was obviously meant to provide for the case of the seamen or others striking. The guild objected to this clause, and the Court forbade the insertion thereof in any contract. The masters and officers were to carry out their own function, whatever men of other unions did. In the case of the waterside workers just quoted, where so many members joined in a sympathetic strike in aid of the New South Wales railway employees — employees whom the Court had no

[42] Waterside workers, 30 August, 1917, 11 Com. Arb. (1917).

jurisdiction to touch — the union consented to give a bond rendering the union liable to £50 for each time that any two or more members of the union in combination struck work or refused to accept work as a means of enforcing compliance with any demand made by them or in their behalf on any respondents bound by awards of the Court in favour of the union or with any demand made by any other union on any employer or employers. It was gratifying to find that the leaders of the union accepted the position as a fair one —

"that in conceding to members of the union safeguards of the kind now suggested the Court should require the members to forego combination to enforce demands on the employers while preserving their individual independence — their full liberty individually to refuse or to take work offered. For the work of the country must be done, and so long as the law provides an appropriate remedy for any injustice the remedy of withholding labour in combination in such a way as to prevent necessary operations is intolerable." [43]

I may add that the union so altered its rules as to make it practically a breach of loyalty to the union to strike or refuse work in combination without the consent of the central executive. The union applied to the Court to restore the privilege of preference in employment, a privilege which had been conceded to the union by voluntary agreement with the employers on representations made by the union that there would be no stoppage of operations; but in the meantime the employers had terminated the agreements in pursuance of the powers therein, and had succeeded in getting their work done by others under promises that these others would get preference in employment; and the Court refused to interfere. It did not grant preference to the so-called "loyalists"; but it declined to give preference to members of the union and thereby interfere with arrangements which were successful so far as achieving a result which the public needed so badly, especially under war conditions. The ships were being loaded and unloaded, and that was enough. In another case the Court dismissed the matter of the dispute, refused to arbitrate for a union whose members were involved in this sympathetic strike. The Court had cognisance of a dispute on the application of an association of iron-

[43] Waterside workers, 28 June, 1918, 12 Com. Arb. (1918).

workers. Information having been received that the members — about three thousand — had struck work in New South Wales in sympathy with the New South Wales railway men, the president directed the case to be put in his list with liberty to any party to file affidavits. It appeared that the members, though engaged in manufacturing steel for rails and rifles required by the British and Australian and state governments, had struck; and the court dismissed the dispute under a clause of the act empowering the Court to dismiss it if further proceedings are not desirable in the public interest.[44]

"This Court has repeatedly expressed the value which it attaches to unionism and with no uncertain voice, but this Court cannot help unionism in a struggle against the public interest." [45]

It is hard to see what more could be done by the Court, a court created by and for the public of Australia. It remains to be seen how far these methods will be successful. The only complete remedy is the adoption of a clearer and higher ideal of duty. The moral and psychological problem remains.

## Improvements in the Law, Etc.

I referred in the previous article to the applications previously made to the Court for prohibition against the president for alleged excess of the constitutional powers. The applications mostly turned on the meaning of the word "*dispute*," or the words "*extending beyond the limits of any one State*"; and the prohibition proceedings were extraordinarily long and costly. The Court of Conciliation might take weeks in investigating the merits of the case and in making an award, and then any one dissatisfied party might bring proceedings for prohibition on the ground that there was no "dispute," etc. The proceedings were generally unsuccessful, it is true, but the uncertainty as to being able to hold an award should they get it, deterred many unions from approaching the Court for relief instead of stopping work. My American friends will be pleased to know that this obstacle to the usefulness of the Court is no longer formidable. In the first place the High Court has better defined the meaning of the words by certain decisions; and

[44] § 38 *h*.

[45] Ironworkers, 11 Com. Arb. (1917).

in the second place Parliament has amended the act by enabling a Justice of the High Court to decide whether there is a "dispute extending" or not, before arbitration, and his decision is final.[46] Now, when a dispute extending is not admitted an application is made to the Justice of the High Court for such a decision before the case is dealt with in the Court of Arbitration.

Another great addition to the usefulness of this Court has been made by a decision of the High Court to the effect that the Court of Conciliation has jurisdiction to "prevent" an industrial dispute extending by taking the quarrel in hand and even making an award as to it before it extends to other states.[47] For instance, there is a dispute at the port of Rockhampton. If it be not settled there the members of the union in the ports of other states will probably treat the vessels which come from Rockhampton as "black" and refuse to work them. The Court of Conciliation in such circumstances has on several occasions settled the dispute before it has extended.[48]

The utility of the power conferred on the President to call a compulsory conference of representative disputants has been time after time demonstrated. Frequently the conference has prevented a local strike which was imminent. Frequently, arrangements are made for carrying on work until award: frequently, quarrels are settled or agreements are made as the result of a conference. The power to call a conference is discretionary; and if in any locality members of the union have struck work the President refuses to call a conference unless work is resumed in the meantime on the old terms (that is to say, refuses to call a conference at the instance of the union). This refusal has on some occasions set the wheels of industry going again until the award has been made.

Since the previous article, employers more frequently than before seek the assistance of the Court for the settlement of disputes. They often ask for compulsory conferences. For instance, the fruit-growers at the interesting settlements of Mildura and Renmark on the Murray River had, year after year, much trouble

[46] § 21 *aa*.

[47] Merchant Service Guild, 16 Com. L. R. 591 (1913).

[48] Waterside workers, 10 Com. Arb. 429 (1916); Merchant Service Guild, 10 Com. Arb. 214, 228 (1916).

with the seasonal employees for picking, packing, etc. An award was made in 1912, at the instance of the Rural Workers Union and another, and the work went on for the term of the award, three years, without any conflict. When the term expired the union had been disbanded, its members having joined the Australian Workers Union. The employers wanted to get the same award as between themselves and the Australian Workers Union, and the latter union was willing to accept the same award; but there was no dispute and, therefore, the Court had no jurisdiction. Subsequently in view of the increase in the cost of living the Australian Workers Union made a demand for higher wages, etc. This demand was disputed, and then the Court got jurisdiction. After a discussion in conference an agreement was made and filed, and the work went on smoothly.[49] This case, however, points to the inconvenience of limiting the jurisdiction of the Court to disputes. It may be that the same power that deals with the disputes should be enabled to regulate labour where necessary.

The President has frequently been asked to act in a one-state dispute as voluntary arbitrator on an ordinary submission by agreement. The request has generally to be refused but in exceptional cases the Court has acted at the request of Ministers of a state or of the Commonwealth, especially where the matter affects the defence of the Commonwealth.

Another encouraging feature of the position is that the practice of arbitration, instead of the practice of strike, is favoured by all, or nearly all, the greater unions. Federal unions are frequently constituted with the avowed view of making common cause in the several states as to existing grievances, and of getting the Court to settle the dispute all round. The Australian Workers Union — the greatest union in Australia, comprising about seventy thousand members in pastoral, farming, and other rural occupations — is a staunch supporter of the work of the Court. Formerly there was continual trouble with the shearers, shed hands, wool pressers, etc. There was no certainty that the pastoralists could get their work done; and yet wool is probably the principal export of Australia. Since the constitution of this Court there has been no general strike of these men. There have been some local troubles, but the

[49] Fruit-growers, 9 Com. Arb. 288 (1915).

executive of the union brings all its influence to bear in favour of waiting for the Court. In 1911, the Court gave an award which did not increase the existing rate for shearing (24/– per hundred), and it actually reduced some rates for wool pressers; and although in the succeeding years the cost of living increased to a formidable extent, the executive of the union insisted on the members taking employment under the award conditions until the Court should deal with an application for an advance. In 1917 the union came before the Court for an advance to 30/– per hundred, and with the consent of the employers who appeared, the Court prescribed that rate. The same union recently took under its wing the workers called "station hands" — boundary riders, bullock drivers, and generally useful employees on the huge pastoral properties. The conditions of these station hands had hitherto been wholly unregulated. The men were paid wages which were wholly inadequate for family life — some 20/–, some 25/– per week or less. The Court granted them the basic wage, but allowed the employers to satisfy the wages in kind by allowances and perquisites (such as residence and provisions) to an amount not exceeding 30/– per week, provided that the value of the allowances and perquisites be approved by a board of reference or by a union official. I have found gratification expressed in unexpected quarters on account of this approach to the solution of a very difficult problem. One of the drawbacks of Australia is the want of population in the back country, the drift to the cities, to occupations which are regulated, and which provide opportunities for family life. On the whole, and although it involves great difficulty and much toil, I am safe in saying that this interesting Australian experiment is so far a success, and that there is not the slightest indication of any movement to revert to the old anarchic state. There are plenty of suggestions, however, for the improvement of the system.

There is a very real antinomy in the wages system between profits and humanity. The law of profits prescribes greater receipts and less expenditure — including expenditure on wages and on the protection of human life from deterioration. Humanity forbids that reduction of expenditure should be obtained on such lines. Other things being equal, the more wages, the less profits: the less wages, the more profits. It is folly not to admit the fact and face it. Moreover the economies which are the easiest to

adopt in expenditure tend to the waste and degradation of human life — the most valuable thing in the world; therefore so long as the wage system continues there is need of some impartial regulating authority. Even if the wages system were to be abolished tomorrow, as some thinkers desire, if in some way the producers had an equal influence on the mode of producing and equal opportunity for self-expression in the product, there would be need still for regulation. In proposition 30 of the previous article it is stated that "The Court refuses to dictate to employers what work they shall carry on, and how, etc." For "employers" substitute "elected directors of industry," and the proposition would remain sound. Even elected persons are sometimes found indifferent to the legitimate claims of a minority. Even unions have been found to disregard the just interests of craftsmen in their ranks, if the craftsmen are few in numbers. Those who favour new systems as the result of some cataclysm or catastrophe or revolution, and treat with scorn industrial tribunals as mere alleviations, or as mere devices to bolster up the existing system, had surely better reconsider their opposition. Let not the better be always the enemy of the good.

*Henry Bournes Higgins.*

MELBOURNE, AUSTRALIA.
August 2, 1918.